IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 16388 of 2004

Between:

Devara Eswara Rao, S/o.Jagannadham,

R/o.Seetharampuram (V), Amity Post,

Terlam (M),Vizianagarm Dist.

..... PETITIONER

AND

1 The District Collector, Vizianagaram.
2 The Joint Collector, Vizianagaram.
3 The M.R.O., Terlam (M), Vizianagaram Dist.
4 Suri Babu (Formerly M.R.O.Terlam),

Presently living at Pool Bagh Colony,
Bobbili, Vizianagaram Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus, declaring the proceedings of the 2nd respondent in Rc.No.267/2003-E4, dt.3-4-2004, as illegal and arbitrary and consequently direct the respondents to put the petitioner in possession of the land assigned to him, an extent of Ac.3.59 cents of Government 'Banjar' dry land in Sy.No.2/12, 3/5, 3/10, 3/11, 3/14, 4/9, 6/14, 14/18 and 21/82 in Seetharampuram (v) and in Sy.No.9 of Ramachandrapuram Near Amity Village in Terlam (M), Vizianagaram District.

Counsel for the Petitioner:Mr.A.YADAGIRI REDDY

Counsel for Respondent Nos.1 to 3: GP FOR REVENUE
Counsel for the Respondent No.4: ------

The Court at the stage of admission made the following ORDER:

The petitioner, who is claiming to be an assignee of the land to an extent of Acs.3-59 cents in Survey No.2/12, 3/5, 3/10, 3/11, 3/14, 4/9, 6/14, 14/18 and 21/82 situated at Seetharampuram village and in Survey No.9 of Ramachandrapuram under 'D' form patta vide D.C.No.171/94, dated 20-09-1994 issued by the third respondent-Mandal Revenue Officer, Terlam, Vizianagaram, filed a petition before the first respondent-District Collector, Vizianagaram for giving necessary directions to the third respondent and Revenue Divisional Officer, Parvathipuram, to handover the land assigned to him.

In view of the same, the second respondent-Joint Collector, Vizianagaram, who conducted an enquiry on the petition filed by the petitioner, noticed that the petitioner filed a suit in O.S.No.170 of 1995 in the Court of Principal Senior Civil Judge, Bobbili, alleging that some encroachers were interfered with his possession but the said suit was dismissed and in which, the third respondent has not added as a party-respondent. The third respondent, who was examined in the said suit, has stated that the signature on the D-form patta was not of his signature and as the said lands are in occupation of the landed rich persons, he is unable to give patta without evicting the encroachers and he has astonished on seeing the patta, which was produced by the petitioner. Apart from perusal of the said statement made by the third respondent, the second respondent called for the records from the third respondent namely, the assignment register and found that in the said register, against D.C.No.171, the name of the petitioner has been included with different

writings and with different ink and in the last column, it was entered as “D-patta sanctioned vide TM.No.158 to 170 and 170” is unvisibly struck out and noted 171. The signature on the Xerox copy of D-patta produced by the petitioner is different and not at all tallying to that of the signature of the third respondent in the assignment register. Since the said document was not genuine and the very fact that the petitioner has not impleaded the third respondent as party-respondent to the suit creates doubt and the document produced by the petitioner do not inspire the confidence that he was granted a patta, the second respondent dismissed the petition, which was filed by the petitioner, through his order dated 03-04-2004. Questioning the said order, the petitioner moved this Court by way of present writ petition.

The said finding arrived at by the second respondent after verifying the records is a finding of fact and I see no infirmity in the finding arrived at by the second respondent warranting interference of this Court under Article 226 of the Constitution of India.

The writ petition is accordingly dismissed. However, if the petitioner is entitled for assignment of the land as Ex-Serviceman, it is always open for him to apply for the assignment of an alternative land on his retirement through District Sainik Welfare Officer or with his recommendations, if any. No costs.

14th SEPTEMBER, 2004.

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To

1 The District Collector, Vizianagaram.
2 The Joint Collector, Vizianagaram.
3 The Mandal Revenue Officer, Terlam (M), Vizianagaram Dist.
4 Two C.Cs to the Government Pleader for Revenue, High Court of A.P.,

Hyderabad (OUT)

5 Two C.D copies